EXHIBIT B

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DROPBOX, INC., a Delaware corporation Plaintiff,	)	Case No. 3:15-CV-01741-EMC
VS.	)	
THRU INC., a Delaware corporation, Defendant.	)	

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ORAL AND VIDEOTAPED DEPOSITION OF

THOMAS SKYBAKMOEN

DECEMBER 22, 2015

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ORAL AND VIDEOTAPED DEPOSITION OF THOMAS SKYBAKMOEN, produced as a witness at the instance of the Plaintiff, and duly sworn, was taken in the above-styled and numbered cause on the 22nd day of December 2015, from 9:40 a.m. to 2:13 p.m., before Caroline Chapman, CSR in and for the State of Texas, reported by Computerized Stenotype Machine, Computer-Assisted Transcription, at the Law Offices of Wilson Sonsini Goodrich & Rosati, 900 South Capital of Texas Highway, Las Cimas IV, Fifth Floor, Austin, Texas, pursuant to the Federal Rules of Civil Procedure. SF-067069

A P P E A R A N C E S

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Also Present: Videographer Taylor Willis
Reporter Caroline Chapman, CSR No. 467

Q. Okay. And that was a decision that you made. 09:44
A. Yes. 09:44
Q. Okay. And are you familiar with the subpoena that's before you right now, Exhibit 1? 09:44 09:44
A. Yes. That was something that was provided to me from my attorney, I had the ability to get those documents. 09:44 09:45 09:45
Q. Okay. And you discussed that with your attorney, and you understand that is a court-ordered command that you provide testimony and documents today -- 09:45 09:45 09:45 09:45
A. Yes. 09:45
Q. -- in connection with this lawsuit. Okay. And you have brought documents with you today -- 09:45 09:45
A. Correct. 09:45
Q. -- in connection with the lawsuit. 09:45
Why don't I mark as Exhibit 2, the collection of documents that has been produced to us today by the witness, Mr. Skybakmoen. 09:45 09:45 09:45
MR. CONE: Thank you. 09:45
Q. (By Mr. Slafsky) And these were produced for the first time shortly before the beginning of this deposition. 09:45 09:45 09:45
(Deposition Exhibit No. 2 marked.) 09:45
Q. Mr. Skybakmoen, are the documents now marked as 09:46

Exhibit 2 responsive to the subpoena that you were served with? 09:46 09:46

A. Yes. Having looked through the documents that I have at home that would pertain to the case, these were the ones I found. There are potentially some other documents, but I am not a lawyer, and they could fall under an NDA. They were marked as Thru documents but I -- uhm -- I haven't spent a significant time looking through them. 09:46 09:46 09:46 09:46 09:46 09:46 09:46

Q. Okay. So you haven't spent a significant time looking through these documents? 09:46 09:46

A. No. These I have looked through, yes. 09:46

Q. Okay. And we are going to go through these documents in more detail shortly. But with respect to documents that may be responsive to the subpoena -- 09:46 09:46 09:46

A. Uh-huh. 09:46

Q. -- that you have not produced to us today, do you intend to produce those in the future? 09:46 09:46

A. Uhm. Having discussed it with my lawyer, I believe that he gave you a response as to -- uhm -- where we would stand in terms of those documents as they might or might not fall under an NDA. It would not something that I am willing to, obviously, put forward here today. 09:47 09:47 09:47 09:47 09:47 09:47

Q. Okay. And can you describe to me generally 09:47

what those documents are? 09:47

A. Uhm. They were documents around marketing, presentations, some emails. Uhm. Yeah, everything potentially that I worked on at Thru. 09:47 09:47 09:47

Q. Including projects related to the issues in this lawsuit? 09:47 09:47

A. Potentially. If it was, let's say, website related or a webinar that we might have worked on, there could obviously be documents that were produced be it a script, be it build up to what was published on the website and so forth. 09:47 09:47 09:48 09:48 09:48

Q. Okay. And the basis, again, for you withholding those documents is that you're concerned that there is a confidentiality issue? 09:48 09:48 09:48

A. Correct. 09:48

Q. Okay. And again, you're aware that the subpoena is equivalent to a court order directing you to produce documents today. 09:48 09:48 09:48

A. Uh-huh. 09:48

Q. Okay. I am going to ask that you, or your lawyer, provide us with a schedule or a log identifying what these documents are, the nature of the documents, the dates of the documents, who the creator of the documents are? 09:48 09:48 09:48 09:48 09:48

A. Okay. 09:48

Q. If there is a title to the document, and then we would be in a better position to understand whether there is a proper basis here for withholding the documents subject to a subpoena. 09:48 09:48 09:48 09:49
A. Okay. 09:49
Q. And you understand that this may mean that we may need to call you back again -- 09:49 09:49
A. Yes. 09:49
Q. -- to ask you questions about any documents that you produce at a subsequent date. 09:49 09:49
A. Yes. 09:49
Q. Okay. Did anyone ask you to withhold the documents that you're not producing today, subject to the subpoena? 09:49 09:49 09:49
A. No. 09:49
Q. That was a decision that you made on your own? 09:49
A. Yeah. 09:49
Q. Okay. Do you have an understanding, generally, what the procedures will be today? Did you talk to your lawyer about this? 09:49 09:49 09:49
A. Yeah. He gave me a high-level -- 09:49
MR. CONE: Objection. I don't think you should ask him what he talked to his lawyer about. I am not representing him. But it seems to me that he should know that you're not required to discuss the 09:49 09:49 09:49 09:49

Q. Okay. And did you come up with any plan of action with respect to the Dropbox trademark? 11:45 11:45

A. No. What do you mean? 11:45

Q. Did you come up with any agenda for the company as to what it should do or how it should do things with respect to the Dropbox trademark? 11:45 11:45 11:45

A. I mean, we had discussions around, obviously, making sure that we marketed and we had, obviously, AdWords, and so on, relating to this as well as other features and functions within the company, such as Secure File Transfer, Managed File Transfer, Thru Dropbox, Secure Dropbox, these -- these things. 11:45 11:45 11:45 11:45 11:45 11:45

Q. Okay. And why was there a need to take all of these steps with respect to the Dropbox trademark? 11:45 11:46

A. Well, in general terms, you want to make sure that every product and feature you have -- uhm -- obviously, gets as much attraction as possible on Google to attract as many customers as possible to ensure higher sales. Uhm. So as part of the overall marketing assignment that I had was to attract as many users as well as prospects to Thru, and that was done through, as I said, email campaigns, through search engine optimization, through the AdWords, so it was a natural place to, obviously, use the Dropbox name, too. 11:46 11:46 11:46 11:46 11:46 11:46 11:46 11:46 11:46 11:46

Q. Okay. And for Thru at the time, in 2011, did 11:46

the Dropbox trademark have attraction? 11:46
A. No, I wouldn't say so. 11:46
Q. And why is that? 11:46
A. As I said, it wasn't continuously applied across all marketing material. It was mentioned in numerous places, but it wasn't highlighted, I guess, in the same way as when -- when I started in fully marketing this as part of the overall marketing agenda. 11:46 11:47 11:47 11:47 11:47
Q. Okay. And for Thru at the time, in 2011, did the Dropbox name have traction? 11:47 11:47
A. I wouldn't know. 11:47
Q. Okay. To the best of your knowledge and to the best of your recollection at the time, was the Dropbox name, as Thru was offering it, something that was well-known in the marketplace? 11:47 11:47 11:47 11:47
A. No. 11:47
Q. Okay. And why is that? 11:47
A. Uhm. Limited marketing funds availability and -- yeah. 11:47 11:47
Q. What do you mean by "limited marketing funds"? 11:47
A. Obviously, with limited funds, you're not going to be able to do a lot of outbound marketing effectively across all channels to reach the larger audience. 11:48 11:48 11:48
Q. Okay. Before you came to work at Thru, was there a lot of outbound marketing featuring Thru's 11:48 11:48

Dropbox name? 11:48
A. Not to my knowledge. 11:48
Q. Okay. You referred to not a lot of limited -- excuse me -- you referred to limited marketing funds availability. So in other words, there wasn't a sufficient budget, is that what you're saying? 11:48
A. That was my perception. 11:48
Q. Okay. 11:48
A. I -- I don't know that for a fact. 11:48
Q. Okay. And do you have any recollection what the budget was, approximately, for this type of -- 11:48
A. No. 11:48
Q. -- marketing? 11:48
A. I was never given a budget. 11:48
Q. Okay. Do you recall approximately how much money was being spent at the time on promoting names like Dropbox? 11:49
A. You mean, when I was there or before? 11:49
Q. Before and when you were there. 11:49
A. Before, I don't know. When I was there, maybe a few thousand a month -- 11:49
Q. Okay. 11:49
A. -- in terms of AdWords. And then, obviously, the rest was -- was us using our own tools and people to create material, create awareness on websites, and so 11:49

A. Of the same, yes. Yes. 12:23
Q. Okay. And when you came to work at Thru, and after you reviewed these various pieces of marketing collateral, after you reviewed the website, after you reviewed the user guide, did you come to the conclusion -- uhm -- that Thru had been promoting the name Dropbox in a prominent attention-grabbing manner? 12:23 12:23 12:23 12:23 12:23 12:23
MR. CONE: Objection, leading. 12:23
A. Uhm. I honestly -- based on the website and so on, obviously, it was marketed, but I wouldn't be able to answer that type question. 12:23 12:23 12:23
Q. Okay. Other than the appearance of the name "Dropbox" on the ThruInc.com website, how did Thru market the term "Dropbox" at the time that you started at the company? 12:23 12:23 12:24 12:24
A. It was definitely brought up as part of the technical presentations and/or the sales team as part of their, I guess, go-to-sales or go-to-marketing strategy. 12:24 12:24 12:24
Q. Okay. And when you say, it was part of their go-to-market strategy, what do you mean specifically? 12:24 12:24
A. Well, probably poor choice of words. Obviously, each sales team, regardless of the company, would have a pitch that they would go forward with, it could be targeted to a particular industry, a particular client, and part of that pitch would obviously be to 12:24 12:24 12:24 12:24 12:24

highlight the key capabilities that you have as a company to provide versus your competitors. Uhm. And that would then be -- be used as their repertoire in -- as far as I know, what I saw at least being used by several sales associates. 12:24 12:24 12:25 12:25 12:25

Q. Okay. And the Dropbox functionality was a capability then that the sales staff at Thru would have highlighted. 12:25 12:25 12:25

A. Depending on the customer, it could have been, yes. 12:25 12:25

Q. Okay. And -- uhm -- to the extent that the -- the functionality was mentioned by the sales staff, would it have been verbally, would it have been on a PowerPoint, would it be on a user guide, any other context? 12:25 12:25 12:25 12:25 12:25

A. I would assume, at least verbally, and in some cases by email. 12:25 12:25

Q. Okay. 12:25

A. And on occasions -- and, obviously, marketing material and/or presentations that might have been put together. 12:25 12:25 12:26

Q. Okay. 12:26

A. With all of the above. 12:26

Q. Okay. And I would like to mark as Dropbox Exhibit No. 9 another page or series of pages from the 12:26 12:26

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DROPBOX, INC., a Delaware) Case No.
corporation) 3:15-CV-01741-EMC
Plaintiff,)
)
VS.)
)
THRU INC., a Delaware)
corporation,)
Defendant.)

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REPORTER'S CERTIFICATION
VIDEOTAPED DEPOSITION OF THOMAS SKYBAKMOEN
DECEMBER 22, 2015

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I, CAROLINE CHAPMAN, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, THOMAS SKYBAKMOEN was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on December 28, 2015, to the witness or to the attorney for the witness for examination, signature, and return to me within 30 days;

That the amount of time used by each party at the deposition is as follows:

Hon. John L. Slafsky - Three hours and

fifty-seven minutes.

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes all parties of record:

Hon. John L. Slafsky, Counsel for the Plaintiff
Hon. John M. Cone, Counsel for the Defendant.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Certified to by me on December 28, 2015.

Caroline Chapman

CAROLINE CHAPMAN, Texas CSR 467
Expiration Date: 12/31/2016
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